

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
5:18-CV-00142-MR

EARL JAMES WATSON,

Plaintiff,

v.

PAULA SMITH, et al.,

Defendants.

**MOTION TO STAY DISCOVERY AND
DISPOSITIVE MOTION DEADLINES OF
DEFENDANTS DAVID GUINN, N.P.,
MARTA KALINSKI, M.D. AND KEVEN
CHUNG, M.D.**

NOW COME Defendants Marta Kalinski, M.D., Keven Chung, M.D., and David Guinn, N.P. (collectively “these Defendants”), by and through counsel, pursuant to Rules 6(b) of the Federal Rules of Civil Procedure and Local Civil Rule 5.2.1 and 7.1 of the United States District Court for the Western District of North Carolina, and hereby move the Court for the entry of an order staying all discovery and the dispositive motion deadlines as to these Defendants pending the resolution of these Defendants’ Motion for Summary Judgment Limited to Failure to Exhaust Administrative Remedies (“Motion for Summary Judgment”). ([D.E. # 153](#)).

In support of this Motion, these Defendants submit the following for the Court’s consideration:

1. On September 24, 2020, these Defendants filed a Motion for Summary Judgment ([D.E. # 153](#)), Supporting Memorandum ([D.E. # 154](#)), and the Affidavit of Kimberly Grande in support of these Defendants’ Motion for Summary Judgment ([D.E. # 155](#)). If these Defendants’ Motion for Summary Judgment is granted, they will be terminated as defendants in this action and the issue of discovery and dispositive deadlines will be moot.

2. On November 30, 2020, the Court issued a Pretrial Order and Case Management Plan directing the parties to complete discovery by March 23, 2021. ([D.E. 165](#)). The Court further directed the parties to file dispositive motions by April 22, 2021. *Id.*

4. This Motion is made in good faith and not for the purpose of delay.

5. Plaintiff is incarcerated in this case and is represented by Cory Tischbien for the purposes of discovery. Ms. Tischbien consents to this motion. Adrina Greenlee Bass, counsel for Defendants Clelland, Glick, Parsons, Foreman, Brewton, Randle, Bowden, Murphy, and Goines, consents to this Motion. The remaining defendants have been terminated from this action and, therefore, were not consulted.

6. As of the date of filing this Motion, the Court has not ruled on these Defendants' Motion for Summary Judgment. If these Defendants' Motion for Summary Judgment is granted, the issue of discovery and dispositive deadlines will be moot. For this reason, the undersigned counsel is requesting the entry of an order staying all discovery and the dispositive motions deadline as to these Defendants pending the resolution of their Motion for Summary Judgment. If these Defendants' Motion for Summary Judgment is denied, it is requested that they have forty-five (45) days from entry of the Order to respond to any discovery requests served on these Defendants. It is further requested that if these Defendants' Motion for Summary Judgment is denied, they shall have sixty (60) days from entry of the Order to file dispositive motions.

WHEREFORE, these Defendants respectfully request that this Court stay discovery and the dispositive motion deadline set forth in the Pretrial and Case Management Order as to these Defendants until the resolution of their Motion for Summary Judgment, and should that motion be denied, grant these Defendants forty-five (45) days to respond to any discovery requests served on

these Defendants, and grant these Defendants sixty (60) days to file dispositive motions, and grant any further relief the Court deems proper and just.

Respectfully submitted,

This 2nd day of December, 2020.

YOUNG MOORE AND HENDERSON, P.A.

By: /s/ Elizabeth P. McCullough
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CERTIFICATE OF SERVICE

I hereby certify that on the 2nd day of December, 2020, I electronically filed the foregoing document, with the Clerk of the Court using the CM/ECF system and served the following CM/ECF participants using the CM/ECF system:

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I hereby certify that on the 2nd day of December, 2020, I electronically filed the foregoing document, with the Clerk of the Court using the CM/ECF system and I mailed said document to the following non-CM/ECF participant:

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